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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/543,330	04/05/2000	Julie Rae Kowald	169.1658	6705
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FITZPATRICK CELLA HARPER & SCINTO 30 ROCKEFELLER PLAZA NEW YORK, NY 10112				
			EXAMINER ONUAKU, CHRISTOPHER O	
			ART UNIT 2616	PAPER NUMBER
DATE MAILED: 01/13/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/543,330

Applicant(s)

KOWALD, JULIE RAE

Examiner

Christopher O. Onuaku

Art Unit

2616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20,22-53 and 55-70 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-7,9,11-13,16-20,22,23,26,27,30-37,39,42-53 and 55-71 is/are rejected.
- 7) ☒ Claim(s) 3,4,8,10,14,15,24,25,28,29,38,40 and 41 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 7/26/04 have been fully considered but they are not persuasive. Applicant argues that Iggulden et al fail to teach or suggest editing a sequence, using a predetermined cutting format to provide a number of edited segments of predetermined segment duration. Applicant further argues that Iggulden et al do not disclose actually segmenting that clip on a time basis to produce a plurality of clips or segments. Examiner disagrees.

Iggulden clearly discloses an editing process of an incoming video signal (sequence) to identify and mark the different segments into commercials and video programs, for example. To do this, a real-time tape counter provides the time and tape location for each detected event. These tape locations will be used during the processing and marking phases to identify and mark, for example, the locations of commercials/video program . During the recording phase, the event detectors are sampled and the time and tape location of each change of state (end of one segment and the beginning of another segment) of the event detectors are stored in an event list in temporary memory (see col.9, lines 15-26).

Note that without any alternate definitions of the words "clip" and "segment" in the claims, the words clip and segment are interchangeable to mean an even or segment or

Art Unit: 2616

any division within the video signal (sequence) for the purpose of identifying a time difference, for example, of the different segments of the video signal, which is clearly disclosed in Iggulden.

From the above, it is clear that Iggulden et al disclose segmenting a clip on a time basis to produce a plurality of clips or segments.

Also, Applicant argues that Iggulden et al, Nakatani et al and Yaegashi et al are not combinable. Examiner disagrees

Nakatani et al was cited for teaching the incorporation of a title matte as part of the edited sequence, which Iggulden fails to disclose, and Yaegashi et al was cited for teaching identifying at least one title location and incorporating the inserted title, which Iggulden and Nakatani fail to teach.

It is not necessary that the references actually suggest, expressly or in so many words, the changes or improvements that applicant has made. The test for combining reference is what the references as a whole would have suggested to one of ordinary skill in the art. In re Sheckler, 168 USPQ 716 (CCPA 1971); In re McLaughlin 170 USPQ 209 (CCPA 1971); In re Young 159 USPQ 725 (CCPA 1968).

In addition, the test for obviousness is not whether the features of the reference may be bodily incorporated into the other to produce the claimed subject matter, but simply what the references make obvious to one of ordinary skill in the art. In re Bozek, 163 USPQ 545, (CCPA 1969); In re Richman 165 USPQ 509, (CCPA 1970); In re Beckum, 169 USPQ 47 (CCPA 1971); In re Sneed, 710 F.2d 1544, 218 USPQ 385.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1,2,5-7,9,11-13,16-18,22,23,26,27,30-33,39,42-44&71 rejected under 35 U.S.C. 102(b) as being anticipated by Iggulden et al (US 5,696,866).

Regarding claims 1&22, Iggulden et al disclose extracting characteristic data associated with each clip from the sequence, the characteristic data including at least time data related to the corresponding duration (col.9, lines 10-19); processing means for processing the characteristic data according to at least one predetermined template of editing rules to for editing instruction data (see col.10, line 57 to col.12, line 16); said editing rules comprising at least a predetermined cutting format configured to form edited segments based on a plurality of predetermined segment durations (see col.12, line 17 to col.13, line 16); and processing the video sequence according to the editing instruction data to form an edited sequence of the edited segments (see col.10, line 57 to col.12, line 16).

Regarding claims 2,7,23&35, Iggulden et al disclose that said cutting format providing for the formation of the edited segments each comprising one of at least a first duration and a second duration and for discarding of at least a portion of each said clip (see col.12, line 17 to col.13, line 16); and wherein an initial interval of a predetermined

Art Unit: 2616

(third) duration is discarded from each of the clip prior to formation of the edited segments from a remainder of the clips (see col.10, line 57 to col.12, line 16); and an output means for receiving the edited sequence (Fig.1). The other limitations of claim 35 were previously discussed in the art rejection of claims 1&22.

Regarding claims 5,6,26&43, Iggulden et al disclose that the edited sequence is formed from a time sequential combination of the segments based upon a predetermined cutting pattern formed using segments of the first duration and the second duration (FIG.9); wherein the predetermined cutting pattern comprises alternate first duration segments and second duration segments (col.12, lines 45-55).

Regarding claim 9, Iggulden et al disclose an internal interval of a predetermined (fourth) duration is discarded from at least one of the clips from which at least two of the edited segments are to be formed, the internal interval separating portions of the clip from which the two edited segments are formed (Fig.9).

Regarding claim 11, Iggulden et al disclose that the formation of the edited segments comprises cutting the segments from the clips (Fig.9).

Regarding claims 12,13,27&39, Iggulden et al disclose that the formation of the edited segments comprises cutting a portion from at least one of the clips and modifying a reproduction duration of the portion to correspond with one of the first duration and the

Art Unit: 2616

second duration, wherein the cutting and modifying are performed when the portion has a reproduction duration within a predetermined range of one of the first and second durations (col.10, line 57 to col.12, line 16).

Regarding claims 16,30&42, Iggulden et al disclose that the editing rules comprise an edited duration during which the edited segments are to be reproduced and from which a number of the edited segments is determined based on the first and second durations (col.10, line 57 to col.13, line 16).

Regarding claims 17&32, Iggulden et al disclose that the segment duration are determined using a beat period of a soundtrack to be associated with the edited sequence (col.6, line 53 to col.7, line 20).

Regarding claim 18, Iggulden et al disclose that the characteristic data comprises data accompanying the video sequence (Fig.9).

Regarding claim 31, the limitations of claim 31 were discussed in the art rejection of claim 6 (note: the claim states "or a pseudo-random selection" thereby only requiring some of the limitations of the claim to be met for an art rejection).

Regarding claim 33, Iggulden et al disclose that the characteristic data comprises data selected from data accompanying the video sequence, and data formed by

Art Unit: 2616

analyzing comprising at least one of time analysis (col.12, line 17 to col.13, line 16),  
image analysis, sound analysis and motion analysis (col.5, line 45 to col.8, line 59).

Regarding claim 44, the limitations of claim 44 were discussed in the art rejection of claims 5-6. Please refer to the art rejection of claims 5-6. Note: "one of X and Y" is considered to be an alternate statement allowing either X or Y to satisfy the limitation "one of".

Regarding claim 71, Iggulden et al disclose that the one template is selected from a plurality of templates each comprising different combinations of editing rules (col.12, lines 45-55).

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Iggulden et al in view of Nakatani et al (US 5,784,521).

Regarding claim 19, Iggulden et al fail to disclose incorporating a title matte as part of the edited sequence.



Nakatani et al teach incorporating a title (Fig.6E-6F). Further, it is well known in the art to incorporate a title on a matte background.

It would have been highly desirable to insert a title in the video so that the video segments can be identified by the viewer. For example, if the edited segment is a movie, then the title of the movie can be inserted.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to incorporate a title matte in the device of Iggulden et al

6. Claims 20,34,45-48,55-57&63-65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iggulden et al in view of Nakatani et al and further in view of Yaegashi et al (US 5,956,453).

Regarding claims 20,34&45, Iggulden et al disclose examining the time data for each clip to identify those of the clips that are associable by a predetermined time function, the associable clips being arranged into corresponding groups of clips (col.12, line 17 to col.13, line 16); and identifying at least a beginning and a conclusion (Fig.9). However, Iggulden et al fail to disclose identifying at least one title location, and incorporating the inserted title.

Yaegashi et al teach grouping associable clips (CUTS) into corresponding groups of clips (SCENE, Fig.6B); and identifying at least one of a beginning (605) and a conclusion (611) of each group as a title location.

Nakatani et al teach inserting the title into the sequence, as discussed previously. Since Yaegashi et al separates the video into separate scenes, using the text feature of

Nakatani et al title data can be inserted by examining at least one of corresponding time data and further characteristic data to generate the insert title including at least a text component (e.g., "scene 1").

It would have been highly desirable to organize the clips as shown in Fig.6B so that the device generates an automated grouping of cuts, scenes, and motion pictures. Since the cuts are set by the device, the user does not have to go through the process of setting cuts manually

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to organize the clips as described above, and insert titles in the device of Iggulden et al.

Regarding claims 46,55&63, Iggulden et al teach examining the time data for each clip to identify those of the clips that are associable by a predetermined time function, the associable clips being arranged into corresponding groups of clips (col.12, line 17 to col.13, line 16); and identifying at least one of a beginning and a conclusion of each said group as a title location (Fig.9). However, Iggulden et al fail to disclose examining time data and further data to generate an insert title including at least a text component; and incorporating the insert title into the sequence at the title location

Nakatani et al teach inserting the title into the sequence and Yaegashi et al teach grouping cuts into scenes, as discussed previously. Since Yaegashi et al separates the video into separate scenes, using the text feature of Nakatani et al title data can be inserted corresponding to time data and further data (e.g., "scene 1").

It would have been highly desirable to organize the clips as shown in Fig.6B so that the device generates an automated grouping of cuts, scenes, and motion pictures. Since the cuts are set by the device, the user does not have to go through the process of setting cuts manually. It would have been highly desirable to insert titles in the sequence corresponding to time data and further data so that scene numbers and cut numbers can be inserted into the video so that the editor easily recognizes scenes and cuts, thereby making editing easier.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to organize the clips as described above, and insert titles in the device of Yaegashi et al.

Regarding claims 47, 56 and 64, Iggulden et al disclose that the predetermined time function comprises associating any two sequential clips with a group when the period between real-time conclusion of one of the clips and the real-time commencement of the following clip is less than a predetermined (first) duration (col.12, line 17 to col.13, line 16).

Regarding claims 48, 57 and 65, Iggulden et al fail to disclose that the further data comprises user provided data.

Yaegashi et al disclose an editing device that allows the user to change cuts as desired (col.3, line 25 to col.4, line 2). Therefore, the user can associate any two sequential clips with a group when the period between the real time conclusion of one

said clip and the real time commencement of the following said clip is less than a predetermined first duration. Since the user can set cuts, the further data is considered to be provided by the user (Fig.5).

It would have been highly desirable to have user provided data so that the user can edit the cuts in the case that commercial segments have been missed or improperly identified.

Therefore, it would have been highly desirable to a person of ordinary skill in the art at the time of the invention to have a user provided data in the device of Iggulden et al.

7. Claims 36&37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iggulden et al.

Regarding claim 36, Iggulden et al disclose that the supply means comprises a storage arrangement configured to couple the video sequence to the extraction means (120, Fig.1). However, Iggulden et al fail to disclose a display device and a further storage arrangement.

Iggulden et al disclose a VCR providing audio and video outputs (Fig.1). It is well known that a VCR outputs can be connected to at least one of a display device (i.e., a TV) by which the edited sequence is viewable and a further storage arrangement for storing the edited sequence (i.e., another VCR).

Regarding claim 37, the characteristic data comprises metadata (col.9, line 10 to col.10, line 6), the extracting means forming a metadata file of the video sequence

based upon each said clip, the metadata file forming an input to the processing means (col.9, line 49 to col.10, line 6), at least the processing means comprising a computer device operable to interpret the metadata file according to the rules to form the edited instruction data (114).

8. Claims 49,50,58,59,66&67 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iggulden et al in view of Nakatani et al, and Yaegashi et al and further in view of Yoshida (US 5,515,101).

Regarding claims 49, 50, 58, 59, 66 and 67, Iggulden et al fail to disclose generated data comprising a title selected from a title database consisting of individual words or phrases.

Yoshida teaches further data comprising generated data formed by analyzing the corresponding said clip and examining the data to select from a rule-based group of alternatives at least one title component from a title database, the title components collectively the inserted titles (col.7-9), wherein the title components are selected from the group consisting of individual words or phrases (col.7-9), the title components being configured for selecting in response to rule-based examination of the data.

It would have been highly desirable to select a title from a title database so that the titles do not have to be generated by the user; and commonly used titles are easily available.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to select titles consisting of individual words or phrases from a title database in the device of Iggulden et al.

9. Claims 51-54, 60-62 & 68-70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Iggulden et al in view of Nakatani et al, Yaegashi et al and Yoshida and further in view of Miyazaki et al (US 6,546,187).

Regarding claims 51-53, 60-62 & 68-70, Iggulden et al fail to disclose that the title database comprises a plurality of typeset configurations and a graphical database of graphical objects; and a matte background permitting superimposition of the inserted title upon the clip.

Miyazaki et al teach a title database with a graphical database of graphical objects configured for inclusion in the inserted title (Fig.6-9); a plurality of typeset configurations applicable to the title components to modify a visual impact of the inserted title (Fig.6-9); and a matte background permitting the superimposition of the inserted title upon the clip (Fig.6-9).

It would have been highly desirable to have the graphical objects, typeset configurations, and a matte background so that the user has a plurality of options to select from to make clips more interesting.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention to have a plurality of typeset configurations, graphical objects, and a matte background in the device of Iggulden et al.

Regarding claim 54, the limitations of claim 54 were discussed in the art rejection of claims 46-53. Please refer to the art rejection of claims 46-53.

***Allowable Subject Matter***

10. Claims 3,4,8,10,14,15,24,25,28,29,38,40&41 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2616

**Conclusion**

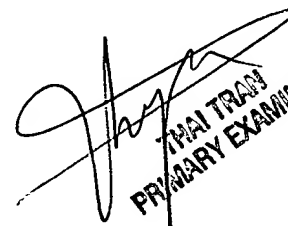
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher O. Onuaku whose telephone number is (703) 308-7555. The examiner can normally be reached on M-F 8:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
COO

1/6/05

  
THAI TRAN  
PRIMARY EXAMINER